HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO :36772 of 1998

Dated 14th June, 2007

Between
M.s.Sanman Hotel, Tarnaka
Rep. By its Managing Partner Sri N.Raghavender Rao

…Petitioner

and

Municipal Corporation of Hyderabad,
Rep. By its Commissioner, Tarnaka, Secunderabad, and, anr

…Respondents.

HONOURABLE SRI JUSTICKE R.SUBHASH REDDY

WRIT PETITION No. 36772 of 1998

ORDER:

In this Writ Petition, the petitioner has questioned the notice dated 24-12-1998 issued by the Commissioner, Municipal Corporation of Hyderabad in exercise of powers under Section 636 of the Hyderabad Municipal Corporations Act, 1955.

The petitioner is a hotel running in the premises obtaining on lease, situated at Tarnaka, Secunderabad. It is the case of the petitioner that there is a registered lease deed in its favour from the third respondent-owner. It is stated that the front portion of the building was demolished for the purpose of constructing fly-over without issuing prior notice and to support roof, three pillars were raised in the interest

of the customers and building. The impugned order is questioned on the ground that notice is vague and no particulates are furnished.

At the stage of admission, this Court has granted interim orders on 31-12-1998 and the said orders are continued all along.

No counter affidavit is filed on behalf of the first respondent-Municipal Corporation of Hyderabad.

In the impugned notice, though it is stated that some unauthorized constructions were undertaken by the petitioner, but, there is no description at all, and, merely it is stated as unauthorized constructions of RCC columns. Though Section 636 of the Hyderabad Municipal Corporations Act, 1955 empowers the Commissioner for removal of constructions which are unauthorized and which were constructed without due permission, but however, at the first instance, the owner and possessor of the building was to be issued with a notice for removal of such portions which are un-authorizedely constructed. In that view of the matter, unless definite particulars are given with regard to unauthorized constructions in a building, no notice can be issued for demolition. More over, though Writ Petition is of the year 1998, no counter affidavit is filed by the first respondent-Municipal Corporation of Hyderabad.

In that view of the matter, I deem it appropriate to set aside the impugned notice dated 24-12-1998 and permit the first respondent-Corporation to issue fresh notice, in case, any unauthorized constructions are made in the premises in question, by giving descriptions of such unauthorized constructions and take appropriate steps by giving opportunity to the petitioner.

The Writ Petition is allowed to the extent indicated above. No

order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 14-06-2007.
Msnr.